



## State of Washington REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

**PRIORITY DATE**  
1891

**WATER RIGHT NUMBER**  
Dry Creek Adj. Cert. No. 139 w/chg 1092

**MAILING ADDRESS**  
Robert Riley  
1281 Riley Road  
Walla Walla, WA 99362

**SITE ADDRESS (IF DIFFERENT)**  
4532 Lower Dry Creek Road  
Walla Walla, WA 99362

### Quantity Authorized for Diversion

<b>MAXIMUM DIVERSION RATE</b>	<b>UNITS</b>	<b>ANNUAL QUANTITY (AF/YR)</b>
0.28	CFS	76.65

### Purpose of Use

PURPOSE	DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
Irrigation of 21 acres	0.28		CFS	76.65		4/1-7/1
	0.21					7/1-10/1

### Source Location

<b>COUNTY</b>	<b>WATERBODY</b>	<b>TRIBUTARY TO</b>	<b>WATER RESOURCE INVENTORY AREA</b>
Walla Walla	Lower Dry Creek	Walla Walla River	32-Walla Walla

<b>SOURCE FACILITY/DEVICE</b>	<b>PARCEL</b>	<b>TWP</b>	<b>RNG</b>	<b>SEC</b>	<b>QQ Q</b>	<b>LATITUDE</b>	<b>LONGITUDE</b>
Lower Dry Creek		7 N.	34 E.	13	NW¼NE¼	N46.09046	W118.49985
		7 N.	34 E.	13	NW¼SE¼	N46.08274	W118.50270

Datum: WGS84

### Place of Use (See Attached Map)

**PARCELS** # 340713120002 and # 340712430003

### LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

S½SE¼ of Section 12, W½NE¼ and N½SE¼ of Section 13, all excluding the East 1072 feet there from, all within Township 7 N., and Range 34 E.W.M., in Walla Walla County, Washington

### Proposed Works

Installation of pumps, pipes, flow meters, fish screen, sprinklers (already completed).

### Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
Begun	Completed	In use

### Measurement of Water Use

How often must water use be measured?	Weekly
How often must data be reported to Ecology?	Annually
What volume should be reported?	Total Annual Volume
What rate should be reported?	Annual Peak Rate of Diversion (cfs)

### Provisions

#### Relationship to Other Rights

The total instantaneous quantity (Qi) of water allocated under Dry Creek Adj. Cert. 139 w/chg 1092 is limited to:

- 28 CFS (126 gpm) April 1 – July 1
- 21 CFS (94 gpm) July 1 – October 1

The total annual quantity (Qa) of water allocated under this surface water right is limited to **76.65** acre-feet/year for the irrigation of 21.0 acres.

SW Certificate #10266 was issued as an additive right for the 21 acres Place of Use (POU) authorized by Dry Creek Certificate 139, and primary right for irrigation of 151 acres.

Groundwater Certificates G3-21880C and G3-28747C are additive groundwater rights that include the same place of use as surface water rights Dry Creek Adj. Cert. 139 w/chg 1092 and SW Cert. 10266. Instantaneous and annual quantities authorized for these two groundwater rights are non-additive for 172 acres and additive for 18 acres, therefore for the total irrigation of 190 acres.

#### Measurements, Monitoring, Metering and Reporting

An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173, which describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

#### Department of Fish and Wildlife Requirement(s)

The intake(s) shall be screened in accordance with Department of Fish and Wildlife screening criteria (pursuant to RCW 77.57.010, RCW 77.57.070, and RCW 77.57.040). Contact the Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA 98501-1091. Attention: Habitat Program, Phone: (360) 902-2534 if you have questions about screening criteria. <http://wdfw.wa.gov/about/contact/>

#### Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

**Proof of Appropriation**

The water right holder must file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the water right. Elements of a proof inspection may include, as appropriate, the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

**Schedule and Inspections**

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

**Real Estate Excise Tax**

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of revenue to obtain specific requirements for your project. Phone: (360) 570-3265. The mailing address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia WA 98504-7477 internet: <http://dor.wa.gov/>. E-mail: REETSP@DOR.WA.GOV

**Findings of Facts**

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that the proposed change is from the same source of water; that there will be no impairment of existing rights; and that the purpose of use is beneficial.

Therefore, I ORDER approval of Application for change to Dry Creek Adj. Certificate 139 w/chg 1092 subject to existing rights and the provisions specified above.

**Your Right To Appeal**

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.



Street Addresses	Mailing Addresses
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel Road SW Ste 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 7th day of April, 2015.

  
 Keith L. Stoffel, Section Manager

*For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.*

## INVESTIGATOR'S REPORT

Ying Fu, Department of Ecology

Water Right WRTS Number: CS3- \*57139J

Dry Creek Adj. Cert. No.139 w/chg1092

### BACKGROUND

Dry Creek Adjudicated Certificate No. 139 was issued August 19, 1952, to Paul F. Hedger of Walla Walla, Washington. The priority date is the year 1891. The certificate appropriated an instantaneous diversion of 0.28 cfs (cubic feet per second) from April 1 to July 1, and 0.21 cfs from July 1 to October 1 each year.

On December 24, 1969, Certificate of Change No. 1092 was issued to move the point of diversion (POD) for Dry Creek Adj. Cert. 139 from the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Sec.18 to the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Sec. 13, all within T.7 N., R. 34 E.W.M. Certificate of Change No. 1092 also specified the purpose of use is for the irrigation of 21 acres within the legally described place of use. The Certificate of Change No. 1092 was issued to Mr. Ralph Riley.

On May 31, 2005, Louis E. Riley filed a change application to formally add an additional point of diversion for Dry Creek Adj. Cert. No. 139 w/chg 1092, in addition to the existing POD. The proposed POD will be located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 13, all within T. 7 N., R. 34 E.W.M., Walla Walla County, Washington. The application for change was assigned to Robert Riley on November 22, 2013.

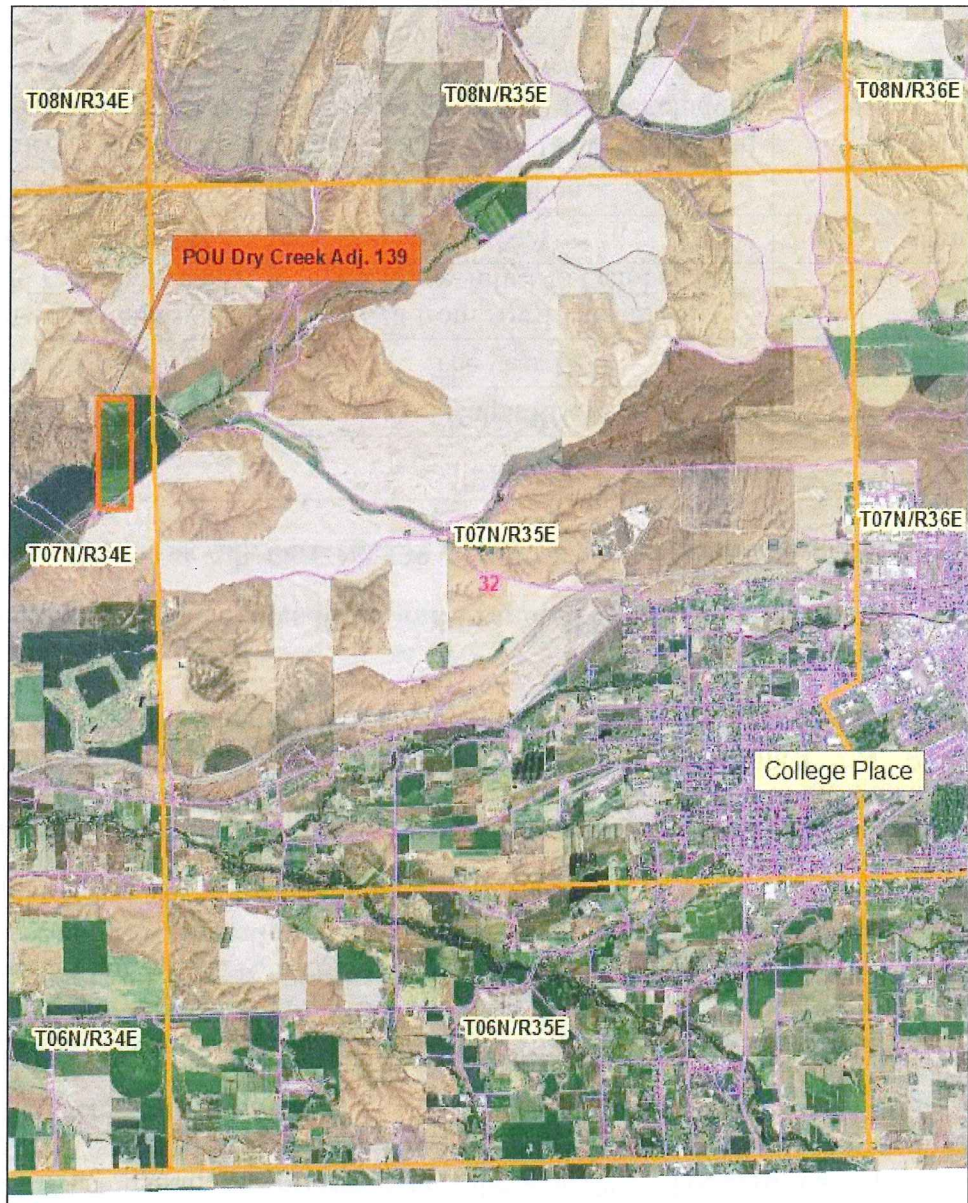
### Attributes of the Existing Water Right and Proposed change

**Table 1 Dry Creek Adj. Cert. No.139 w/chg 1092 Existing and Proposed attributes**

Attributes	Existing	Proposed
Name	Ralph Riley	Robert Riley
Priority Date	The year 1891	same
Instantaneous Quantity: Qi cfs (cubic feet per second)	0.28 from April 1 to July 1 0.21 from July 1 to October 1	same
Annual Quantity: Qa	N/A	same
Purpose of Use	Irrigation	same
Place of Use: for the irrigation of 21.0 acres	S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 12, W $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 13, all excluding the East 1072 feet there from, all within Township 7 N., and Range 34 E.W.M., county of Walla Walla, Washington.	same
Point of Diversion	NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec.13, T. 7 N., R. 34 E.W.M.	Existing POD and new POD in NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 13, T. 7 N., R. 34 E.W.M.



**Figure 1**  
**Project Site Vicinity Map**  
**Dry Creek Adj. Cert. 139 w/chg 1092**  
**2013 Aerial photo**



## Legal Requirements for Proposed Change

- **Public Notice**

RCW 90.03.280 requires that notice of a water right application be published once a week for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in a weekly official newspaper of the City of Waitsburg and the County of Walla Walla, during the weeks of October 27 and November 3, 2005. No protests or objections were received.

- **Consultation with the Department of Fish and Wildlife**

The Department must give notice to the Department of Fish and Wildlife (WDFW) of applications to divert, withdraw or store water. This notice was submitted via email on December 9, 2014 to Steve Boessow. A letter was received from WDFW on January 13, 2015 that indicated they do not oppose the project. The project is subject to state Hydraulic Code (Chapter 77.55 RCW) and fish screening statutes (RCW 77.57.010, RCW 77.57.040 and RCW 77.57.070). Contact the Department of Fish and Wildlife, at 600 Capitol Way N, Olympia, WA 98501-1091, Attention: Habitat Program or by phone at (360) 902-2534, if you have questions about screening criteria.

- **State Environmental Policy Act (SEPA)**

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- It is a surface water right application for more than 1 cubic feet per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- It is a groundwater right application for more than 2250 gallons per minute
- It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

This application is exempt from the provisions of the State Environmental Policy Act (SEPA) of 1971, Chapter 43.21 RCW, due to the fact that the cumulative quantities of water for this project under all water rights constitute a withdrawal of less than one (1) cubic foot per second, and none of the other conditions described above are met.



- **Water Resources Statutes and Case Law**

RCW 90.03.380(1) allows for a water right that has been put to beneficial use to be changed. The point of diversion, place of use, and purpose of use may be changed if the change would not result in harm or injury to existing water rights.

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

A point of diversion for a surface water right may be changed. RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed if it would not result in detriment or injury to other water rights.

## **INVESTIGATION**

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Reports and materials considered during the course of this investigation include the following:

- Change applications for Dry Creek Adj. Cert.139 w/chg 1092 and SW Cert. No.10266.
- State Water Code, administrative rules and policies, relevant case law
- Related water right files
- Notes documenting the site visit by Ying Fu and Ecology Water Master Eric Hartwig.
- Washington Irrigation Guide (WA 210-VI-WAIG)
- Aerial photographs when they are available for the past 10 years
- USGS topographic maps
- Farm Service Administration crop records
- Walla Walla County Assessor records
- Discussions with other Water Resources Program staff in Ecology's ERO
- Dry Creek Adjudication documents

### **Site Inspections**

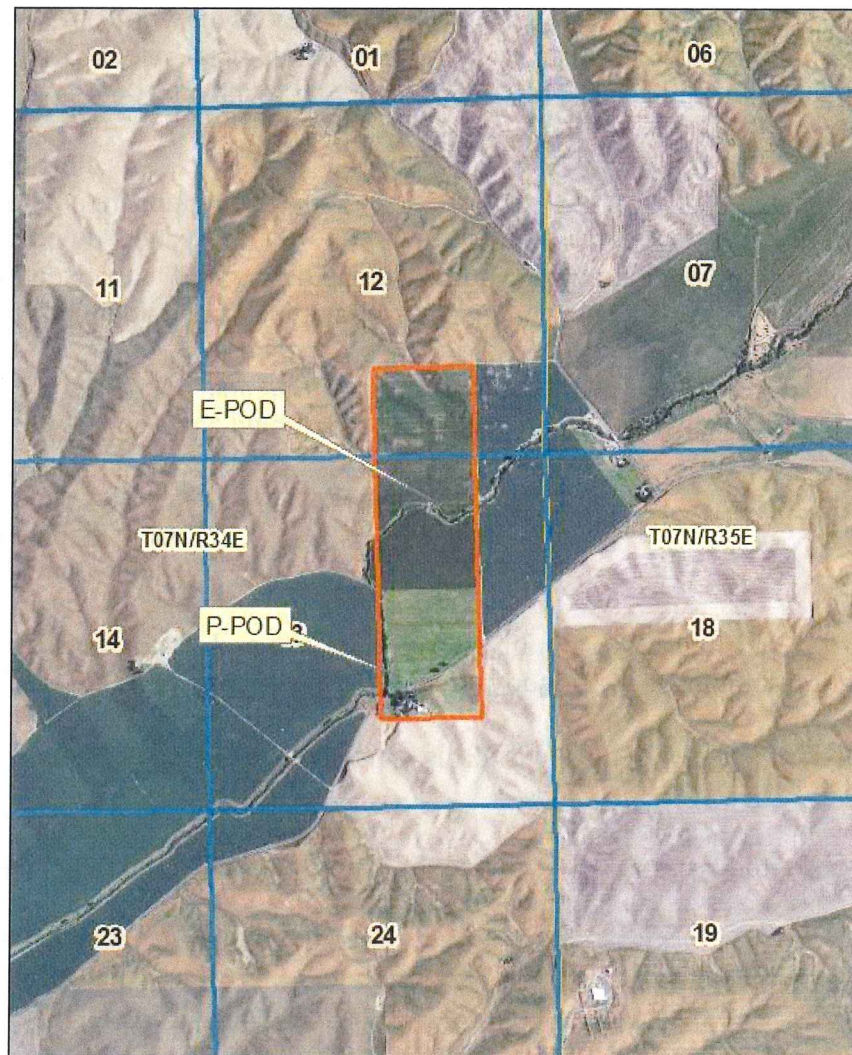
The project site is located approximately nine miles west of the City of Walla Walla along US Hwy 12, in Walla Walla County, Washington (Figure 1).

A field examination was conducted by Ying Fu and Ecology water master Eric Hartwig on April 30, 2014. A meeting was held at Ms. Janice Riley's house with Ms. Janice Riley and her daughter Ms. Carol Hopkins. A field walk through followed the meeting. A second site visit was conducted by Eric Hartwig in October, 2014 to obtain additional information regarding the pump system set up, metering records, and cropping records in the last ten years.



**Figure 2      Aerial Photo of Project Site POU**

Verified Boundary for Dry Creek Adj.  
Cert. #139 w/chg 1092  
2011 Aerial Photo  
Scale 1:24,000



Farm Services Agency (FSA) cropping data from 1996 to 2005 were submitted. The crops were planted on two parcels: #340713120002 of 131.49 acres and #340712430003 of 46.75 acres. Therefore the total planted is 178.24 acres. The irrigated acres are limited to 21 acres authorized under the Dry Creek Adj. Cert. 139 w/chg 1092. Other irrigated acreages are covered under the SW Cert. #10266 and the two ground water rights.

The applicant proposes to add a new Point of Diversion (POD) to the existing authorized POD downstream on Dry Creek. The proposed POD has been in use for the past 24 years. It was installed due to constant stream channel changing conditions. The land owner needed the flexibility to use both PODs at two different locations based on stream conditions each year. However, the existing POD has not been in use for the past 24 years.

The existing POD GPS coordinates are N 46.09046; W 118.49985. The proposed POD GPS coordinates are N 46.08274; W 118.50270.

At the new PODs the stream bank is moderately steep, and is up to 100 feet high in some areas.

The pump system is set up to provide several pumping options. For summer flows from July 1 to October 1, the system is set up to operate with a Qi limit of 94 gpm, using:

- 1) 15 hp pump alone,
- 2) 7.5 hp pump alone
- 3) combined 15 hp and 7.5 hp together

For the fall and spring flows, the pumping is authorized under two water rights: Dry Creek Adj. Cert. 139 and SW Cert. 10266, and the system is set up to pump under several options below:

- 1) 10 hp and 40 hp pumps combined,
- 2) 10/40 hp combo, plus 7.5 hp pump to get the maximum flow (3cfs),
- 3) 15 hp pump alone,
- 4) 15 hp +7.5 hp combined,
- 5) 7.5 hp alone

The 10 hp, 40 hp and the 15 hp pumps are located near the bridge at the main pump station; the 7.5 hp pump is near the road where the proposed POD is located. Flow metering records and power for pumping records were submitted for 2000 to 2010.

Cropping records from FHA are on file for 2000 to 2005. The crops planted each year have been consistent since 2005 to date. There are approximately 108 acres of alfalfa, 35.9 acres of grain with a rotating crop of barley in some years, and 32 acres of grass land for grazing, according to the FHA records and submitted written statement.

A fish screen was installed and is manually operated through a mechanical pulley system. The irrigation system was set up with one main pipeline connection to each pump station, and four wheel lines and several hand lines to feed a network of sprinklers. The project is subject to state



hydraulic code (Chapter 77.55RCW) and fish screening status (RCW 77.57.010, RCW 77.57.070).

### Other Rights Appurtenant to the Place of Use

A review of Ecology records was conducted for existing water right certificates, permits and claims appurtenant to the project. The search focused primarily on Sections 12 and 13, T. 7 N., and Range 34 E.W.M. The review of Ecology records shows three other water rights are appurtenant to the authorized place of use.

**SW Cert. 10266** – The Certificate was issued March 22, 1968 to Ralph Riley. The certificate authorizes 3.0 cfs instantaneous withdrawal and 688 acre-feet annual quantity for the irrigation of 172 acres. 84 acre-feet per year is granted as an additive right for irrigation of 21 acres that is covered under this prior right of Dry Creek Adj. Cert. 139. The remaining 604 acre-feet per year is a primary right for irrigation of the remaining 151 acres. The water duty is 4 acre-feet per acre per year.

**G3-21880C** -- This Certificate was issued August 19, 1981 to Louis E. Riley. The certificate authorizes 400 gallons per minute instantaneous withdrawal and 600 acre-feet annual quantity for irrigation of 190 acres. This ground water right was issued as an alternate source right for the two surface water rights that are appurtenant to the same POU.

**G3-28747C** – This Certificate was issued in 1997 as a family farm right and additive to the two surface water rights Dry Creek Adjudication Cert. #139, SW # 10266 and one ground water right G3-21880. Total quantity for all four rights shall not exceed 1350 gallons per minute, 883 acre-feet per year. The certificate authorizes additive quantities of 100 gallons per minute and 124 acre-feet per year for the irrigation of 190 acres.

**Table 2. Quantities of water originally allocated under Dry Creek Adj. 139, SW Cert. 10266, G3-21880C and G3-28747C**

	Qi (cfs or gpm)	Qa (ac-ft/yr)	Acres (POU)	Acres (irrigated)
Dry Creek Cert. 139 w/chg 1092	0.28 cfs (Apr-July) 0.21 cfs (July-Oct)		172	21
SW Cert. 10266	3.0 cfs (October - July)	688	172	172
Additive rights				
G3-21880C	400 gpm	600	190	190
G3-28747C	100 gpm	124	190	190
<b>Total</b>	<b>1350 gpm</b>	<b>883</b>	<b>190</b>	<b>190</b>

- Dry Creek Adj. Cert. #139 w/chg 1092 shares the same POU of 172 acres with SW Cert. 10266. There are two ground water rights, G3-21880C and G3-28747C that



are also appurtenant to the same POU and 18 acres as primary right for the two ground water rights for a total of 190 acres.

- Surface water right SW Cert. 10266 is partially supplemental to Dry Creek Adj. Cert. 139 w/chg 1092, and part primary right. The two ground water rights listed above lists attributes of all four water right certificates.

In addition, a review of Ecology records was conducted for existing water rights surrounding the project's place of use. The search revealed only one surface water right overlap at the same place of use with Dry Creek Cert. 139 and SW Cert. 10266 as listed below

Dry Creek Adj. Cert. 89 (S3-57089): The surface right was issued to Paul Hedger in 1952, with a priority date of January 1, 1901. The purpose of use is for continuous stock and domestic supply only, and for the same place of use as Dry Creek Cert. 139. The proposed POD project will have no impact to this water right.

### **History of Water Use**

Washington State Supreme Court, in Okanogan Wilderness vs. Town of Twisp and Department of Ecology 133 Wn.2d 769,947 P.2d 732 (1997), held that applications for change may be granted only to the extent the water has been put to beneficial use, as beneficial use determines the measure of a water right. They also found that the existence and quantification of a water right must be determined, including whether or not the water right has been relinquished or abandoned, before the Department can approve a change or transfer of the water right. While the superior court, through an adjudicative process, is the only authority that can make a final determination as to a water rights extent, validity and priority, Ecology is required to make a tentative determination of these factors for purposes of making decisions on change applications.

The site visit, past 10 years of aerial photos, the land owner's personal statements, power records and FSA (Farm Service Agency) crop records confirm that water has been historically and beneficially used on Robert Riley's property within the legally authorized place of use. The crop records submitted allow calculation of historical water use for Robert Riley's property.

The quantities of water beneficially used were determined by using the Washington Irrigation Guide, the FSA crop records and aerial photos, to estimate water use for the highest water duty crop grown which has consistently been alfalfa on the 21 acres of irrigated land.

### **Beneficial Use Per Unit Acre**

The equation to calculate the water use per acre unit is as follows:

$$(1 \text{ acre} \times \frac{^1\text{Crop water need}}{12 \text{ inch/1ft}} / ^2\text{Ea}) = \text{ ? } \text{AF (acre-feet)}$$

<sup>1</sup> The specific crop water need is based on Washington State Irrigation Guide 2010. Alfalfa requires 32.85 inches of water in the project area.

<sup>2</sup> The application efficiency Ea is determined in Ecology guidance document GUID-1210. For hand-line irrigation system, it is determined to be 75% efficient.

$$1 \text{ acre} \times 32.85 \text{ inch}/12 \text{ inch}/\text{ft})/75\% / 1 \text{ acre} = 3.65 \text{ acre-ft}/\text{acre}$$

### **Estimate of Irrigated Acres**

The 21 acres POU of Dry Creek Cert. 139 is part of a bigger POU for SW 10266, and within the parcel # 340713120002 (131 acres). It is evident from FSA records that a total of 176 acres has been consistently irrigated in the past 20 years, more than the 172 acres authorized POU. Therefore it is concluded that the 21 acres POU is the irrigated acres for Dry Creek Cert. 139.

### **Annual Beneficial Use Qa**

Annual beneficial water use for Dry Creek Cert. 139 is calculated as:

$$21.0 \text{ acres} \times 3.65 \text{ ac-ft}/\text{acre} = 76.65 \text{ acre-ft}$$

There was no annual quantity authorized under the original water right Dry Creek Cert. 139, only instantaneous withdrawal was granted.

### **Instantaneous Quantity Qi**

The instantaneous withdrawal for Dry Creek Adj. Cert. 139 is 0.28cfs (126gpm) from April 1<sup>st</sup> to July 1<sup>st</sup>, and 0.21cfs (94gpm) from July 1<sup>st</sup> to October 1<sup>st</sup>. The same POD is shared with surface water right SW Cert. 10266. The pumping system is set up using a combination of three different pumps, a 10 HP, a 15 HP and a 40 HP depending on the irrigation period. The smallest 10 HP pump will deliver approximately 166 gpm, which is greater than the authorized instantaneous Qi withdrawal of 0.28 cfs (126 gpm) from April 1<sup>st</sup> to July 1<sup>st</sup>. Therefore it is concluded the Qi is fully utilized throughout the irrigation season and should remain within the authorized quantity:

Qi: 126 gpm from April 1<sup>st</sup> to July 1<sup>st</sup>;  
94 gpm from July 1<sup>st</sup> to October 1<sup>st</sup>.

### **Hydrologic/Hydrogeologic Evaluation**

The Hydrologic/Hydrogeologic evaluation in this section references an email message/analysis by Ecology Eastern Regional Office Hydrogeologist, John Covert.

Dry Creek is a tributary of the Walla Walla River that drains 15% (240 square miles) of the river basin. As it descends toward its confluence with the Walla Walla River near Lowden, the gradient of the creek is about 30 feet per mile. Most of its watershed consists of rolling hills utilized for dry land wheat production. During much of the irrigation season, Dry Creek has little to no flows within its lower reaches.



Approval of this proposed change would authorize an additional POD for Dry Creek Adj. Certificate 139 w/chg 1092. The existing POD is located approximately ¼ mile upstream of the proposed POD on Dry Creek.

The amended WRIA 32 Basin Water Management Rule (WAC 173-532) was adopted in 2007. Through this rule, instream flows were adopted on Mill Creek for the reach of stream in which the proposed change would take place (WAC 173-532-030[5]). This rule also requires that these instream flow water rights be protected from impairment by all future changes and transfers of both senior and junior water rights (WAC 173-532-030[3]). This change would authorize a point of diversion approximately ¼ river mile downstream from the existing POD, which should enhance flows through this reach of Mill Creek. There would be no change in the season of use of water under the right through this change.

### **Impairment Considerations**

“Impair” or “impairment” means to 1) adversely impact the physical availability of water for a beneficial use that is entitled to protection and/or 2) to prevent the beneficial use of the water to which one is entitled, and/or 3) degrade the quality of the source to the point that water is unsuitable for use by existing water right holders (WAC 173-150).

Dry Creek Adj Cert. 139 w/chg 1092 shares the same authorized place of use with SW Cert. 10266. Both rights are owned by Robert Riley. Both rights have been exercised at the current place of use since the certificates were issued, and from the proposed POD in the past 24 years. Change applications for each of the water rights were submitted to add to the existing legally authorized PODs in 2005. Diversion and beneficial use of water from Dry Creek under these two rights has not caused any impairment to other water users in the past, and there are no water rights owned by other land owners in between the existing POD and the proposed additional POD, so exercise of these two rights in a similar manner should not cause impairment of any water rights in the future.

Instream flows on this reach of Dry Creek should benefit from the change to Dry Creek Adj. Cert. 139, because the new added POD is downstream of the original POD. There will be no impairment to other existing water rights on this reach of Dry Creek.

### **Consideration of Protests and Comments**

No protests or comments regarding this application were received.

### **CONCLUSIONS**

Based on the investigation of relevant information regarding the proposed change to Dry Creek Adj. Certificate 139 w/chg 1092, it is the conclusion of this examiner that irrigation is a beneficial use of water, and the proposed additional POD will not enhance the existing right and will not cause impairment of any existing water rights.



## RECOMMENDATIONS

Based on the above investigation, I recommend the requested change to Dry Creek Adj. Certificate 139 w/chg 1092 be approved as follows:

Qi = 126 gpm from 4/1 to 7/1;  
94 gpm from 7/1 to 10/1;

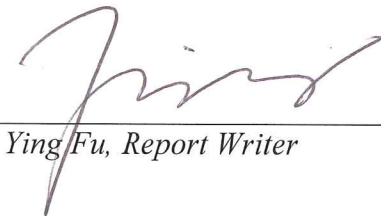
Qa = 76.65 acre-ft per year

Seasonal irrigation of 21.0 acres

Point of Diversions:

1. Existing POD on lower Dry Creek with GPS coordinates of N46.09046; W118.49985, within the NW¼NE¼ of Sec. 13, T. 7 N., R. 34 E.W.M.
2. Added POD on lower Dry Creek with GPS coordinates of N46.08274; W118.56270, within the NW¼SE¼ of Sec. 13, T. 7 N., R. 34 E.W.M.

Place of Use = The S½SE¼ of Section 12, W½NE¼ and N½SE¼ of Section 13, all excluding the East 1072 feet therefrom, all within Township 7 N., and Range 34 E.W.M., County of Walla Walla, State of Washington.



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Ying Fu, Report Writer

Date

4/2/2015

If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.



